

Schillings Submissions

At Schillings we specialise in helping people protect their privacy. Most of our clients are successful individuals with significant resources at their disposal. Even for them, trying to protect their privacy and have damaging content removed from the internet can be very difficult. So we really worry about what the experience is like for those with less resources, particularly children.

Other organisations are much better qualified than us to comment on the detail of this Consultation. The submissions from 5Rights, for example, are compelling.

The over-arching point we urge the Information Commissioner to consider is that where young people are concerned, it should be as hard as possible to share private information and as easy as possible to remove distressing content.

In terms of sharing private information:

1. Online services should collect the minimum amount of data about children as is possible.
2. Children should be able to easily see, on terms they understand, who is holding their personal information and why.
3. Privacy notices should be written for their relevant audiences, not for law graduates.
4. There should be more barriers for children when they share private information, so that the information does not go out to the world, to live online permanently, while children are too immature to appreciate and assess the consequences.
 - a. As a practical example of how more barriers could be erected, when a child user is about to post content online, there could be a pop up showing them how many people will see the material.
 - b. If a post contains nudity, there could be a “reflection period” when young users have 30 minutes to consider whether they really want to post the content before it is made public.
 - c. For child users under a certain age, the ability to “go live” could be disabled.
5. Geo-tags should be automatically removed for child users.
6. Only parents and guardians should be allowed to see a child’s live location on WhatsApp and similar messaging apps.

In terms of removing distressing content, the current processes are often far too difficult and slow. For example, in a recent case we had concerning an impersonation account, which caused our client considerable upset, it took three weeks for the account to be removed. Our complaint was rejected three times on different grounds before the company recognised our client’s situation.

Individuals also face the “whack a mole problem” by which we mean, when someone is carrying out a harassment campaign, it’s so easy to set up a new account once one

is closed down. A young girl approached us for help recently as she's extremely stressed and depleted as a result of someone bullying her online. Instagram have been good at quickly removing the material but are doing nothing to stop new accounts being set up by the same person. The girl also made the point that Instagram must know how many posts she has had to complain about. She'd expect the company to reach out to her and offer some form of support. Yet they've done nothing and each morning this girl wakes up to an assault of new notifications alerting her to more highly upsetting content.

The response to requests to remove distressing content is often overly bureaucratic. If you do not fill the automated form out exactly as required then it is highly likely that your complaint will be automatically rejected. For those who can afford to instruct specialist lawyers this is not an issue, however it is clearly much more difficult for the average internet user (particularly if they are a child) to enforce their rights.

Age Appropriate Design should recognise that children cannot be expected to act as informed customers able to protect and assert their rights. Instead the information society service must act positively and pro-actively to safeguard children's rights.

Section 2: About you

Are you:

A body representing the views or interests of children? Please specify:	<input type="checkbox"/>
A body representing the views or interests of parents? Please specify:	<input type="checkbox"/>
A child development expert? Please specify:	<input type="checkbox"/>
A provider of ISS likely to be accessed by children? Please specify:	<input type="checkbox"/>
A trade association representing ISS providers? Please specify:	<input type="checkbox"/>
An ICO employee?	<input type="checkbox"/>
Other? Please specify: Partner at Schillings International LLP, a multi-disciplinary law firm specialising in safeguarding privacy.	<input checked="" type="checkbox"/>

**Thank you for responding to this call for evidence.
We value your input**